State of Rajasthan & Ors. vs. Shri Allabaksha & Anr.
(S.B.Civil Writ Petition No.3703/07)

Dated:- 30.10.2007.

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. B.L.Tiwari, Dy. Government Advcate for the petitioner.

This writ petition is directed against order dated 17.2.2006 passed by the Board of Revenue, Rajasthan, Ajmer in reference/T.A./05/02, Bikaner, whereby the reference made by the Dy.Commissioner, Colonisation, Bikaner vide order dated 22.1.2002, questioning the validity of order dated 20.3.89 passed by the Assistant Commissioner, Kolayat declaring the respondent as Gair Khatedar of 25 bighas of land comprising Chak 1/RN , murabba No.152/44 , has been rejected and the matter has been remanded to the Colonisation Commissioner to take decision afresh with regard to making of the reference, after due examination of the revenue record and keeping in view the relevant provisions.

The learned Board of Revenue has arrived at the finding that the reference made by the Dy.Commissioner, Colonisation, Bikaner is incompetent .

The learned Dy.Government Advocate in all fairness submitted that the question raised in the petition with regard to the competence of Dy.Commissioner, Colonisation to make a reference is no more res integra. The learned Dy.Government

Advocate submits that the Division Bench of this court in the matter of Ramzan Khan vs. State of Rajasthan(D.B.Special Appeal No.789/03), decided vide judgment dated 2.3.2007 has already taken the view that the Dy.Commissioner , Colonisation is not competent to make the reference.

The learned Board whie rejecting the reference made by Deputy Commisioner, Colonisation has only remanded the matter to the Commissioner, Colonisation to take decision afresh, to make a reference after due examination of the revenue record and keeping in view the relevant provisions of law. In view of the Bench decision of this Court(supra), I do not find any infirmity or illegality in the order passed by the Board.

Accordingly, the writ petition is dismissed . No order as to costs.

(SANGEET LODHA),J.